

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES BELL, #201585,

Petitioner,

v.

CASE NO. 5:09-CV-14423
HONORABLE JOHN CORBETT O'MEARA

NICK LUDWICK,

Respondent.

ORDER DENYING PETITIONER'S MOTION TO STRIKE

This matter is before the Court on Petitioner's motion to strike Respondent's pleadings because he believes that Respondent has failed to file the entire state court record and has failed to sign the answer to the petition. Respondent has not filed a response to the motion.

Rule 5 of the Rules Governing Section 2254 Cases requires that, as part of the answer, Respondent file a copy of any prior decisions, pleadings, briefs and/or transcripts needed to adjudicate the issues presented. The Court's review of the record reveals Respondent filed such materials with the Court on May 19, 2010, the same day as the answer. Petitioner's assertion to the contrary is belied by the record. Petitioner also fails to indicate what *relevant* portions of the state record, if any, have not been submitted to the Court. He is thus not entitled to relief on such a basis. Moreover, if any relevant portion of the state court record were missing, the proper remedy would be to compel production of the necessary materials, not to strike Respondent's pleadings.

Rule 11(a) of the Federal Rules of Civil Procedure requires that every pleading be signed by the attorney of record or the party personally. Respondent's answer to the petition was

electronically filed with the Court and so signed by Respondent's attorney of record. This was done in compliance with Local Rule 5.1.1, Appx. ECF. Petitioner's claim is thus belied by the record and wholly without merit. He is not entitled to have the answer stricken from the record.

Accordingly, for the reasons stated, the Court **DENIES** Petitioner's motion to strike.

IT IS SO ORDERED.

s/John Corbett O'Meara
United States District Judge

Date: June 24, 2010

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, June 24, 2010, using the ECF system and/or ordinary mail.

s/William Barkholz
Case Manager